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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,842	02/12/2001	Thomas J. Blakemore	D-2958	7727

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EXAMINER

LOVERING, RICHARD D

ART UNIT PAPER NUMBER

1712

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/781,842

Applicant(s)

BLAKEMORE ET AL

Examiner

LOVERING

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on MAY 19, 2003.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 23-42 AND 44-49 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 38-42, 44, 45 AND 47 is/are allowed.
- ☒ Claim(s) 23, 32-37, 46, 48 AND 49 is/are rejected.
- ☒ Claim(s) 24-31 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. In view of the newly-discovered Oshlack et al. 5,472,712 reference, the finality of the rejection mailed March 14, 2003 is withdrawn, applicants' amendment and terminal disclaimer have been entered (thereby obviating every ground of rejection and objection in the final rejection), and the following action is made.

2. The indicated allowability of claims 23, 32-37, 46, 48 and 49 is withdrawn in view of the newly discovered reference(s) to Oshlack et al. above. Rejections based on the newly cited reference(s) follow.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 23, 32-37, 46, 48 and 49 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Oshlack et al. 5,472,712. Oshlack et al. (esp. Abstract; Example 28 referring to Example 26; column 2, lines 32-41 as to the amount of ethyl cellulose coating; column 4, lines 28-33; paragraph bridging columns 4 and 5; column 7, lines 53-59; paragraph bridging columns 13 and 14; and column 15, lines 12-21 and 36-57 as to the use of disinfecting agents or germicides such as calcium hypochlorite as the "active" (e.g. in recreational or swimming pools), disclose and/or suggest controlled release additive compositions for use in open circulating cooling water systems (such as recreational or swimming pools) wherein the core active

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ingredient is a disinfecting agent or germicide such as calcium hypochlorite and the coating is made up of units of one monomer such as ethyl cellulose, and thus render them prima facie obvious. For example, it would have been obvious to one skilled in the art at the time applicants' invention was made to substitute calcium hypochlorite for the therapeutic acetaminophen in Examples 26 and 28 to prepare a controlled release disinfecting agent in view of the interchangeability of these actives in column 4, lines 28-33. Note that in Example 28 of Oshlack et al., the weight percent of Methocel to the tablet cores is about 6%, and in Example 26, the tablet cores include a binder and a lubricant, which is presumably zinc stearate (a known die release agent) disclosed in column 15, line 47.

5. Claims 24-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record doesn't disclose or fairly suggest the controlled-release additive compositions of claims 24-31, 38-42, 44 and 45 or the method of releasing the additive composition in an open recirculating water system of claim 47.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lovering whose telephone number is (703) 308-0443. The examiner can normally be reached on Mon.-Fri. from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

R. Lovering:cdc
June 4, 2003

Richard D. Lovering
RICHARD D. LOVERING
PRIMARY EXAMINER
GROUP ~~1200~~ 1700